

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**GEOTAG INC., et al.,**

Plaintiffs,

v.

**EYE CARE CENTER OF AMERICA,  
INC., et al.**

Defendants.

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Civil Action No. 2:11-CV-404-MHS-MC

**JURY TRIAL DEMANDED**

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**DEFENDANT VITAMIN COTTAGE NATURAL FOOD MARKETS, INC.’S  
NOTICE OF JOINDER**

Without waiving any defense and specifically reserving all applicable defenses, the undersigned Defendant in Civil Action 2:11-cv-404 (the “404 Action”), VITAMIN COTTAGE NATURAL FOOD MARKETS, INC. (“Vitamin Cottage”) by its attorneys, Fenwick & West LLP hereby files this Notice of Joinder in Defendants Coldwater Creek Inc., Draper’s & Damon’s, LLC, and J. Crew Group, Inc.’s (collectively, “Movants”) Motion to Dismiss for Misjoinder (2:11-cv-405 Action, Dkt. No. 33). This Notice of Joinder hereby provides notice that the undersigned Defendant fully adopts the arguments presented in Movants’ Motion and associated Reply (2:11-cv-405 405 Action, Dkt. No. 103).

On September 13, 2011, Plaintiffs GeoTag Inc. and GeoTag, Inc. (collectively, “GeoTag”) filed the 404 Action and the 2:11-cv-405 Action (the “405 Action”) against a single defendant each. The 404 Action named Eye Care Centers of America Inc. as the only defendant. The 405 Action named Circle K Store, Inc. as the only defendant. Three days after these actions were initially brought, the Leahy-Smith America Invents Act and its associated

joinder provision were enacted and took effect. Nearly two months later, GeoTag amended its complaint in both actions to add 41 new defendants to the 404 Action and 56 new defendants to the 405 Action.

For the reasons stated in Movants' Motion to Dismiss for Misjoinder and associated Reply, these 97 new defendants have been improperly joined to the 404 Action and the 405 Action. The undersigned Defendant respectfully requests that it be dismissed from the 404 Action leaving GeoTag free to pursue its original claims against Eye Care Centers of America Inc. and Circle K Store, Inc.

Dated: May 21, 2012

FENWICK & WEST LLP

By: /s/ Hector J. Ribera

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Attorneys for Defendant and Counterclaimant  
VITAMIN COTTAGE FOOD MARKETS,  
INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on May 21, 2012.

*/s/ Hector J. Ribera*

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Hector J. Ribera  
Attorney for Vitamin Cottage Food  
Markets, Inc.